

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

No. 16-CR-20439

-vs-

Hon. Matthew F. Leitman

D-1 CYNTHIA FLOWERS,

Defendant.

/

**GOVERNMENT'S RESPONSE TO DEFENDANT CYNTHIA FLOWERS'
MOTION FOR EARLY TERMINATION OF SUPERVISED RELEASE**

The United States of America hereby responds to defendant Cynthia Flowers' Motion for Early Termination of Supervised Release and states that, for the reasons explained in the accompanying brief, the government does not oppose

the motion.

Respectfully submitted,

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s/Stephen L. Hiyama
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Date: December 14, 2017

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
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**BRIEF IN SUPPORT OF GOVERNMENT'S
RESPONSE TO DEFENDANT CYNTHIA FLOWERS'
MOTION FOR EARLY TERMINATION OF SUPERVISED RELEASE**

On November 15, 2016, this Court sentenced defendant Cynthia Flowers to 24 months' probation and fined her \$7,500. She now asks this Court to order an early termination of her term of supervision.

The government believes that the representations in defendant's motion are accurate. Defense counsel has also related that defendant has paid her \$7,500 fine. Given defendant's positive and cooperative conduct throughout these proceedings and her current circumstances, there appears to be little need for the U.S. Probation Office to supervise defendant for another year. (The government may reconsider its position if, for reasons now unknown to the government, the probation officer opposes defendant's motion.)

The supervision in question is probation, not supervised release, as defendant's motion mistakenly asserts. But the relevant probation statute, 18 U.S.C. § 3564(c), is basically the same as the supervised release statute quoted by defendant on page 2 of her motion, 18 U.S.C. § 3583(e)(1). Section 3564(c) provides:

§ 3564 Running of a term of probation

• • • •

(c) *Early Termination.* – The court, after considering the factors set forth in section 3553(a) to the extent that they are applicable, may, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, terminate a term of probation previously ordered and discharge the defendant . . . at any time after the expiration of one year of probation in the case of a felony, if it is satisfied that such action is warranted by the conduct of the defendant and the interest of justice.

18 U.S.C. § 3564(c).

Rule 32.1 of the Federal Rules of Criminal Procedure, captioned “Revoking or Modifying Probation or Supervised Release,” provides in relevant part:

(c) *Modification.*

(1) *In General.* Before modifying the conditions of probation or supervised release, the court must hold a hearing, at which the person has the right to counsel and an opportunity to make a statement and present any information in mitigation.

(2) *Exceptions.* A hearing is not required if:

(A) the person waives the hearing; or

(B) the relief sought is favorable to the person and does not extend the term of probation or of supervised release; and

(C) an attorney for the government has received notice of the relief sought, has had a reasonable opportunity to object, and has not done so.

Fed. R. Crim. P. 32.1(c).

In sum, the government does not oppose the early termination of defendant's term of probation.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that I electronically filed today the *Government's Response to Defendant Cynthia Flowers' Motion for Early Termination of Supervised Release* by using the ECF system, which will send notification of such filing to the following ECF participant(s): Allison Folmar

Date: December 14, 2017

s/Stephen L. Hiyama
STEPHEN L. HIYAMA
Assistant United States Attorney